THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19348 of 2000

Dated:29.11.2006

Between
Sri Krishna Hindustan Petrol Service
Station,Miryalaguda,Nalgonda
District

.....Petitioner

and

1.The Govt of AP rep., by its
Secretary, Irrigation Dept.,
Secretariat, Hyderabad
and others.

…Respondents

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ORDER

This writ petition is filed seeking a Mandamus to declare the action of the respondents in resuming 255 square yards of land out of 655 square yards of land which is in possession and enjoyment of the petitioner without following due process of law as arbitrary and illegal and consequently to restrain the respondents from interfering with the petitioner's possession and enjoyment of 255 square yards situated at Miryalguda, Nalgonda District.

This Court by an interim order dated 24.10.2000 directed the 6th respondent not to interfere with running of the petrol bunk by the petitioner in an area of 255 square yards situated at Miryalaguda, pending further orders and the same was also made absolute by an order dated

20-08-2001.

It is the case of the petitioner that way back in 1958 when Nagarjuna Sagar Canal Camp was set up at Mirlayaguda, a corner plot of 400 square yards was leased out to him for the purpose of erecting a petrol bunk. At that point of time, in and around the camp, no petrol bunk was available. It was mainly to catering the needs of vehicles of Nagarjuna Sagar Canal Engineers etc. Initially, the lease was granted and it was extended from time to time upto March, 1970. Thereafter, at the request of the petitioner, an extent of another 255 square yards which is adjoining 400 square yards was also leased out to him. Subsequently, the petitioner has put up a proposal for exchange of Ac.0.36 guntas of land held by him with the land which was leased out to him for the purpose of erecting a petrol bunk. The Chief Engineer *vide* his letter dated 11.2.1969 has accepted the proposal made by the petitioner. Thus, according to the petitioner, he accepted to exchange his land of Ac.0.36 guntas for 655 sq yards belonging to the Department, which is far

more better compared to the land given to him. On accepting the exchange proposals as indicated above, the Nagarjuna Sagar Canal Camp authorities laid road and are utilizing the same for the last more than 35 years; by the Department as well as the local public. While the matter stood thus, the respondents seem to have raised a dispute as to 255 square yards of land adjoining 400 square yards, which was leased out to him as an extension of the petrol bunk set up by him in 1958, stating that the land i.e., Ac.0.36 guntas belongs to the petitioner was accepted to be exchanged with the Department for only 400 sq yards, but insofar as 255 square yards is concerned, there was no exchange. Further, insofar as 400 square yards is concerned when he was sought to be evicted, he filed a writ petition before this Court and the said writ petiton was disposed of with a liberty to file a civil suit. The petitioner filed a civil suit in O.S.No.37 of 1988 on the file of the learned Sub Judge, Miryalaguda, and the same was decreed. However, only to an extent

of 255 square yards the dispute remains.

It is the contention of the petitioner that the petitioner offered to exchange an extent of Ac.0.36 gunats which is equivalent to 4433 square yards for the purpose of laying a road for the public as well as for utilization of the Nagarjuna Canal men and machinery for 655 square yards only, which is meagre. Both the lands are located adjacent to each other. The value of the exchanged land of the petitioner, if compared, is more than the value of the land i.e., 655 sq yards which was allotted to him in exchange, and therefore, the authorities ought to have considered exchange of 655 sq yards for that of Ac.0.36 guntas which is equivalent to 4433 square yards. Instead of doing that, the respondents have resorted to forcibly resume the land of 255 square yards which is in use and utility of the petitioner for more than 35 years.

In view of the above, I am of the opinion that there is a lot of heart burn insofar as the petitioner is concerned, since he had exchanged land admeasuring Ac.0.36 guntas which is equivalent to

4433 square yards for the purpose of laying the road. The land of 655 sq. yards, which is given by the authority is very meager. It seems that the respondents are unnecessarily raising a dispute now and then. The petitioner is in possession and enjoyment of the same for the last 35 years and he has raised structures thereon.

Under these circumstances, without expressing any opinion on merits, the respondents are directed to reconsider the matter of exchanging 655 sq yards i.e., 400 sq. yards, which is admitted by the authorities and attained finality plus 255 square yards, for the land given by the petitioner i.e., Ac.036 guntas (4433 square yards) and pass appropriate orders as per law, within a period of eight weeks from the date of receipt of this order. Till such time, no coercive steps shall be taken against the petitioner.

Writ petition is disposed of accordingly. No costs.

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29-11-2006

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